

Jennie L. Clark, OSB No. 000319
E-mail: jennie@clarklawportland.com
Barry Fifth-Lince, OSB No. 182935
E-mail: barry@clarklawportland.com
6501 SW Macadam Ave. Suite E
Portland, OR 97239
(503) 238-1010
(503) 238-1212 (fax)

Of Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

HALIMA ADAN,

Plaintiff,

v.

**CITY OF PORTLAND, A MUNICIPAL
CORPORATION; JOHN DOES 1-2,**
Officers of Portland Police Bureau and Other
Agencies Working in Concert; **U.S.
DEPARTMENT OF HOMELAND
SECURITY; AND U.S. MARSHALS
SERVICE**

Defendants.

Civil No.:

COMPLAINT

**Civil Rights Action (42 U.S.C. § 1983);
Failure to Train, Negligence, and other
state claims.**

DEMAND FOR JURY TRIAL

Plaintiff, Halima Adan, through counsel, Barry Fifth-Lince, complains of City of Portland (“City”); John Does 1, 2; U.S. Department Of Homeland Security (DHS); and U.S. Marshals Service (USMS).

1. VENUE

Venue is proper where the acts giving rise to the cause of action occurred, the City of Portland, Multnomah County, Oregon.

2. PARTIES

- Plaintiff, Halima Adan, is a US citizen who was residing in Portland, OR during the incident that gave rise to this claim.

3.

City is a duly organized municipal corporation under Oregon law, and public bodies liable for the tortuous conduct of its agents and employees pursuant to ORS 30.260(4) and 30.265(1).

4.

Defendant USMS is a federal agency of the United States.

5.

Defendant DHS is a federal agency of the United States.

6.

John Doe#1 is an employee of the U.S. Government – DHS and/or USMS, working in concert with the Portland Police Bureau (PPB), and by extension City, under to PPB Directive 635.10 § 7 (“The Bureau may request assistance from other law enforcement agencies... The Bureau [Incident Commander] shall maintain the authority to determine tactical objectives; direct the overall police response (all agencies); and determine, when objectively reasonable, how and when force may be used and when to deploy less lethal munitions to address civil disturbance and/or disperse the crowd.

7.

John Doe #2 is an employee of City, is a “Portland Police Bureau Team Trainer,” for the teams deployed during the Black Lives Matter demonstration that gave rise to this claim.

8. PRELIMINARY FACTS

All events referred to herein occurred on or about July 21, 2020.

9.

On July 21, 2020, Plaintiff had not committed a crime; nor was there probable cause to believe that a crime had been committed.

10. FACTS

On the evening of July 21, 2020, Plaintiff was downtown during a Black Lives Matter demonstration at the intersection of SW 3rd and SW Salmon, in Portland, Or.

11.

Plaintiff was sitting in her friend's car (Demetrus Batchelor), recording an interview that he was doing with a member of the press.

12.

At one point, during Mr. Batchelor's interview, members of the PPB and DHS, and/or USMS, working in concert with the PPB, pursuant to Directive 635.10 § 7, made an announcement telling all unauthorized people to leave the area.

13.

Without hesitation, Plaintiff encouraged Mr. Batchelor to follow the directive.

14.

Mr. Batchelor, got in his vehicle, following the directive and the advice of the Plaintiff.

15.

Moments later, as Plaintiff and Mr. Batchelor complied, John Doe #1 fired a tear gas canister in Plaintiff's direction.

16.

Seconds later, a second tear gas canister was fired by John Doe #1, directly at Mr. Batchelor's vehicle, shattering his windshield

17.

Glass flew into Plaintiff's face as her and Mr. Batchelor inhaled the poisonous gas.

18.

The use of tear gas in such a manner, violated a court order/Restraining Order, issued on June 26, by U.S. District Court Judge Marco Hernandez, U.S. District Case No 3:20-cv-00917-HZ.

19.

On or about Jan. 14, 2022, the public was made aware of training material intended for multiple agencies that provide officer's training who serve as members of the PPB, and other teams working in concert with PPB.

20.

The training sessions in question, conducted by John Doe #2, were specifically for the teams deployed for in the Black Lives Matter demonstration that gave rise to this claim.

21.

One slide contained a poem written by the "Alt-Knights," the paramilitary arm of the Proud Boys, a right-wing fascist hate group, according to the Southern Poverty Law Center.

22.

The slide reads:

"And the Lord said...

*Woe be unto you, dirty hippy; For thou stinketh of patchouli and BO;
For thou talk of Marx, yet know him not; For thou has bills, yet have not paid;
For thou has dreadlocks and white skin.*

*And so I shall send among you, My humble servants with hat, and with bat;
That they may christen your heads with hickory, And anoint your faces with pepper spray.*

*And once thou hast been cuffed and stuffed; Once thou has been stitched and bandaged;
Perhaps thou shall learn, I am tired of your shit."*

23. TORT CLAIM NOTICE

Timely Tort Claim Notice under ORS 30.275, with an extended timeline per HB 4212, for Batchelor was submitted to the City of Portland on February 9, 2021, Barry Fifth-Lince of this

office. On March 19, 2021, Ms. Jessica Bird, a senior claims analyst employed by the City of Portland, acknowledged this tort claim notice.

24. 1st CAUSE OF ACTION: BATTERY (STATE)

John Doe #1

Plaintiffs re-allege and incorporate paragraphs 8 - 22

25.

John Doe #1, while working in concert with the PPB, pursuant to Directive 635.10 § 7, intended to and caused harmful physical contact with Plaintiff, without reasonable justification, when fired a tear gas canister directly the vehicle in which she was seated, causing chlorobenzylidene malononitrile (CS) chemical agent to disperse, causing severe respiratory distress, a corneal abrasion to Plaintiff's right eye, and skin irritation.

26. 2nd CAUSE OF ACTION: ASSAULT (STATE)

John Doe #1

Plaintiff re-alleges and incorporates paragraphs 8 - 22.

27.

Plaintiff reasonably feared immediate harmful contact when John Doe #1, while working in concert with the PPB, pursuant to Directive 635.10 § 7, fired a tear gas canister directly the vehicle in which she was seated, shattering the windshield causing glass to fly into her face.

28. 3rd CAUSE OF ACTION: NEGLIGENCE (STATE)

City, DHS, USMS

29.

Plaintiff re-alleges and incorporates paragraphs 8 - 22.

30.

City failed to use reasonable care when they did not properly supervise the training of PPB, DHS, and USMS members deployed to the Black Lives Matter Demonstration that gave rise to this claim. While working in concert, pursuant to PPB Directive 635.10 § 7, City allowed PPB, DHS, USMS team members to be trained to specifically violate citizens Constitutional rights based on the content of their speech and/or their political viewpoint. This lack of reasonable care lead directly to Plaintiff's injuries.

31. 4th CAUSE OF ACTION: NEGLIGENCE (STATE)

City, DHS, USMS

Plaintiff re-alleges and incorporates paragraphs 8 - 22.

32.

City allowed PPB, DHS, USMS team members, while working in concert, pursuant to PPB Directive 635.10 § 7, to use tear gas on citizens, including the Plaintiff, in direct violation of a court order/Restraining Order issued by U.S. District Court Judge Marco Hernandez, on June 26. This lack of reasonable care lead directly to Plaintiff's injuries.

**33. 5th CAUSE OF ACTION: VIEWPOINT DISCRIMINATION
(FEDERAL- FIRST AMENDMENT; 42 U.S. CODE § 1983)**

City, DHS, USMS

Plaintiff re-alleges and incorporates paragraphs 8 - 22.

34.

City allowed PPB, DHS, USMS team members, while working in concert, pursuant to PPB Directive 635.10 § 7, to violate Plaintiff's First Amendment right to free speech when it

promulgated a policy for the PPB, DHS, USMS via a training slide, to violently censor speech based on the content of the speech.

35. 6th CAUSE OF ACTION: EXCESSIVE USE OF FORCE

(FEDERAL- FOURTH AMENDMENT; 42 U.S. CODE § 1983)

John Doe #1

Plaintiff re-alleges and incorporates paragraphs 8 - 22.

36.

Defendant John Doe #1 used excessive force, that was not reasonable or necessary, when he fired a tear gas canister directly the vehicle in which Plaintiff was seated, causing chlorobenzylidene malononitrile (CS) chemical agent to disperse, causing severe respiratory distress, skin irritation, and a corneal abrasion on her right eye, while working in concert with PPB, pursuant to PPB Directive 635.10 § 7.

37. 7th CAUSE OF ACTION: LOCAL GOVERNING BODY–

OFFICIAL PROMULGATED POLICY

(*MONELL V. DEPARTMENT OF SOCIAL SERVICES, 436 U.S. 658; 42 U.S. CODE § 1983*)

City, DHS, USMS

Plaintiff re-alleges and incorporates paragraphs 8 - 22.

38.

City, by and through members of PPB, DHS, and USMS working in concert, pursuant to PPB Directive 635.10 § 7, promulgated an official policy that violently censored the content of free speech by promoting the battering and use of pepper spray on citizens, including the Plaintiff, who held a specific political viewpoint.

39. 8th CAUSE OF ACTION: LOCAL GOVERNING BODY–

OFFICIAL PROMULGATED POLICY

(MONELL V. DEPARTMENT OF SOCIAL SERVICES, 436 U.S. 658; 42 U.S. CODE § 1983)

City of Portland, John Doe #2

Plaintiff re-alleges and incorporates paragraphs 8 - 22.

40.

City, by and through members of PPB, DHS, and USMS working in concert, pursuant to PPB Directive 635.10 § 7, promulgated an official policy that allowed the use tear gas on citizens, including the Plaintiff, in direct violation of a Court Order/Restraining Order issued by U.S. District Court Judge Marco Hernandez, on June 26

**41. 9th CAUSE OF ACTION: LOCAL GOVERNING BODY’S FAILURE TO SUPERVISE -
FINAL POLICYMAKER**

(MONELL V. DEPARTMENT OF SOCIAL SERVICES, 436 U.S. 658; 42 U.S. CODE § 1983)

City of Portland, John Doe #2

Plaintiff re-alleges and incorporates paragraphs 8 - 22.

42.

The deprivation of Plaintiff’s constitutional rights, as set forth herein, were caused by City in the following manner.

- A. City did not provide immediate supervision of the training of members of PPB, DHS, and USMS, working in concert, pursuant to PPB Directive 635.10 § 7. Making the John Doe #2, in his role as “Portland Police Bureau Team Trainer,” a “final policymaker.”
- B. In turn, Defendant John Doe #2, as “final policymaker,” presented a training that promulgated the unconstitutional censoring of free speech by promoting the battering

and use of pepper spray on citizens who held a specific political viewpoint, leading directly to Plaintiff's injuries.

43. ECONOMIC DAMAGES

As a result of all of causes of action listed above, Plaintiff incurred a corneal abrasion on her right eye. Treating the injury cost Plaintiff \$405.75. Therefore, Plaintiff seeks \$ \$405.75 in economic damages.

44. NON-ECONOMIC DAMAGES

Based on all the Causes of Action, Plaintiff suffered pain, fear, severe emotional distress, humiliation, mental anguish, a monumental infringement on her Constitutionally protected right to free speech due to this incident. Therefore, Plaintiff is seeking damages for such harm in the amount of \$25,000.00.

43.

TOTAL DAMAGES

Plaintiff seeks \$25,405.75 in total damages, and any other amount the Court deems just and proper. [Non-Economic \$25,000.00; Economic \$405.75]

///

///

///

///

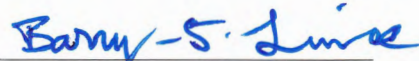
44. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- A. Economic Damages in the amount of \$405.75
- B. Non-Economic Damages in the amount of \$25,000
- C. Punitive Damages.
- D. An award of attorneys' fees and costs pursuant to 42 U.S.C. § 1988;
- E. Any other relief the Court deems proper.

Signed and dated this 19th day of July 2022.

Respectfully submitted



Barry Fifth-Lince, OSB No. 182935
Clark Law and Associates, LLC
6501 SW Macadam Ave. Suite E
Portland, OR 9723